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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,520	03/02/2004	Mark Michael Kosich	3184/1	2770

7590 11/30/2006

Mark Michael Kosich
7739 Old Raleigh Road
Bailey, NC 27807

EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No. 10/791,520	Applicant(s) KOSICH, MARK MICHAEL	
	Examiner Frederick C. Nicolas	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, drawn to an adapter assembly for being attached to a flexible bulk bag, classified in class 222, subclass 462.
 - II. Claims 17-26, drawn to a method for discharging material from a bulk bag, classified in class 222, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus does not require the method step of inverting said bulk bag.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species:

I- Species A: Figs. 1-6.

II- Species B: Figs. 7-8.

- III- Species C: Figs. 9-10.
- IV- Species D: Fig. 11.
- V- Species E: Fig. 12.
- VI- Species F: Figs. 13-14.
- VII- Species G: Fig. 15.
- VIII- Species H: Figs. 16-17.
- IX- Species I: Fig. 18.
- X- Species J: Fig. 19.
- XI- Species K: Fig. 20.
- XII- Species L: Figs. 21-22.
- XIII- Species M: Fig. 23.
- XIV- Species N: Fig. 24.
- XV- Species O: Figs. 25-26.
- XVI- Species P: Fig. 27.
- XVII- Species Q: Figs. 28-29,31-32.
- XVIII- Species R: Fig. 30.
- XIX- Species S: Fig. 33.
- XX- Species T: Fig. 34.
- XXI- Species U: Fig. 35.
- XXII- Species V: Figs. 36-37.
- XXIII- Species W: Figs. 38-39.
- XXIV- Species X: Fig. 40.

- XXV- Species Y: Fig. 41.
- XXVI- Species Z: Fig. 42.
- XXVII- Species A1: Figs. 43-44.
- XXVIII- Species B1: Figs. 45-46.
- XXIX- Species C1: Fig. 47A.
- XXX- Species D1: Fig. 47B.
- XXXI- Species E1: Fig. 47C.
- XXXII- Species F1: Fig. 47D.
- XXXIII- Species G1: Fig. 47E.
- XXXIV- Species H1: Figs. 48-53.
- XXXV- Species I1: Fig. 54.
- XXXVI- Species J1: Figs. 55-56.
- XXXVII- Species K1: Figs. 57-58.
- XXXVIII- Species L1: Fig. 59.
- XXXIX- Species M1: Fig. 60.
- XXXX- Species N1: Fig. 61.
- XXXXI- Species O1: Figs. 62-64.
- XXXXII- Species P1: Figs. 65-66.
- XXXXIII- Species Q1: Figs. 67-68.
- XXXXIV- Species R1: Fig. 69.
- XXXXV- Species S1: Fig. 70.
- XXXXVI- Species T1: Figs. 71-72.

XXXXVII- Species U1: Fig. 73.

XXXXVIII- Species V1: Figs. 74-75.

XXXXIX- Species W1: Figs. 76.

L- Species X1: Fig. 77.

LI- Species Y1: Figs. 78-79.

LII- Species Z1: Figs. 80-82.

LIII- Species A2: Fig. 83.

LIV- Species B2: Fig. 84.

LV- Species C2: 85.

The species are independent or distinct because they have a materially different design among the above noted species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

5. A telephone call was made to the applicant Mr. Mark Michael Kosich on 11/21/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-

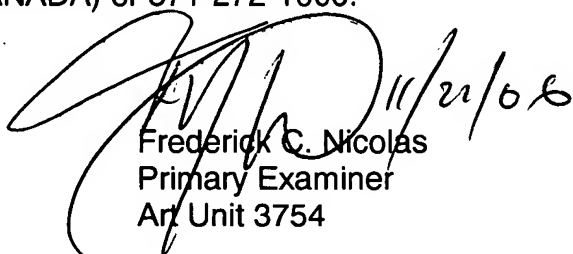
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272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571)-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FN
November 21, 2006



Frederick C. Nicolas
Primary Examiner
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